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In re Application of	:	
DENSHAM et al.	:	
Application No.: 10/525,589	:	DECISION
PCT No.: PCT/GB03/03803	:	
Int. Filing Date: 02 September 2003	:	
Priority Date: 02 September 2002	:	
Attorney Docket No.: GJE-1603	:	
For: BIOSENSOR	:	

This is a decision on applicants' submission filed 07 February 2006 in the United States Patent and Trademark Office (USPTO), which has properly been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 02 September 2003, applicants filed international application PCT/GB03/03803, which designated the United States and claimed a priority date of 02 September 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 March 2005.

On 25 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 07 February 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors and the required surcharge.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Item (1) has been met. The petition fee is $200 rather than $130; the balance of $70 has been charged to Deposit Account 19-0065.

Item (2) has not been met. It is alleged that the non-signing inventors Elena Alieva and Valery Konopsky cannot be found. MPEP 409.03(d), item I, states in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
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> . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts.

Here, such a statement of facts has not been provided. Nor has any documentary evidence been provided.

Item (3) has not been met.

Item (4) has been met. The declaration filed 07 February 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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